

PLANNING COMMISSION

ACTION MINUTES

TUESDAY, JULY 3, 2001

Chair Parsons called the meeting to order at 7:03 p.m. at the Twin Pines Senior and Community Center.

ROLL CALL:

Present, Commissioners: Parsons, Mathewson, Wiecha, Gibson, Petersen, Purcell (arrived at 7:05 p.m.)

Present, Staff: Community Development Director Ewing, Principal Planner de Melo, City Attorney Savaree, Zoning Technician Stone, Recording Secretary Flores

AGENDA STUDY SESSION: None

AGENDA AMENDMENTS:

With consensus of the Commission, Chair Parsons revised the Public Hearing portion of the agenda so that the items will be heard as in the following order: Items 7A, 7D, 7C, 7B, and 7E.

COMMUNITY FORUM (Public Comments): None

CONSENT CALENDAR: None

PUBLIC HEARINGS:

Public Hearing – 2927 San Juan Boulevard: To consider a Single-family Design Review, Grading Plan and Tree Removal Permit to construct a new two-bedroom 1,200 square foot single-family house in a zoning district that permits a maximum floor area of 1,200 square feet. (Appl. No. 00-1068); APN: 043-202-030; Zoned: HRO-2 (Subdivided Hillside Residential Open Space); CEQA Status: Exempt; Jerry Chapman (Applicant); Alice Chapman (Owner)

PP de Melo summarized the staff report, noting that the project had been discussed by the Commission on April 17, 2001, and was continued in order to have it reviewed by the City's geotechnical consultant, Cotton and Shires. On June 20th, staff received confirmation from Cotton and Shires that the applicant's basic geotechnical design meets standards and is geotechnically feasible if current design parameters are implemented for the project.

C Wiecha expressed her concern that, if Cotton and Shires does not concur with the house and garage walls being part of the debris containment system, additional grading will be required. She also questioned the grading required to extend the sidewalk in front of the property.

Jerry Chapman, applicant, responded that he had spoken to Public Works staff extensively about the sidewalk and it was agreed that the sidewalk would be extended from 2925 to 2927 San Juan Blvd., which is 15' of sidewalk. The remaining 10-13 feet further down the hill would result in an unattractive 6-7' retaining wall in order to put in a sidewalk where there are no houses. He agreed to provide other improvements in lieu of the sidewalk. Staff noted that grading in the public right of way is separate from a grading permit issued to the property, so that, while it is all one project, it is regulated separately by the Department of Public Works and is not included in quantity calculations.

Director of Public Works Curtis was asked to clarify the intent of Condition 16 and plans for retaining walls and sidewalks. Director of Public Works Curtis stated that he had not personally reviewed the project, but, as the applicant pointed out, the purpose of Condition 16 was to achieve less grading and less wall in order to get the project completed. The condition calls for a consultation with the Department of Public Works to come up with a way to enable the sidewalk to be put into place. C Wiecha stated that she would object to any changes that might be contemplated to access the house from City property. She is also concerned that the retaining wall not face the street just to create a parking space because no one will walk on that sidewalk; it will be a parking space on the street. Mr. Chapman responded that a portion of the stairs would be within the public right-of-way, just over the property line, but would be hidden from the public view and would be facing the driveway and not into the street.

C Gibson stated that he is one pedestrian who would use the proposed sidewalk because it is on a dangerous blind curve and there is no sidewalk on either side at the present time.

Responding to C Purcell's question, Mr. Chapman stated that the quantity of grading on the driveway would not be altered.

Mr. Chapman concluded his comments by stating that this is his fourth time before the Commission and that neighbors seem to be in acceptance of the project. Regarding earlier comments about the size of the house, he stated that houses directly across the street average from 1100 sq. ft to 1300 sq. ft. and the house next door is 1800 sq. ft. He feels it is not a little house in a neighborhood of large houses. He needs design approval so that he can do the working drawings before the arrival of winter months.

Chair Parsons opened the public hearing. No one came forward to speak.

MOTION: By C Wiecha, seconded by C Mathewson, to close the Public Hearing.

Motion passed.

C Purcell stated that, while she would like to see an increase in smaller houses in Belmont, she does not believe it is a "reasonable use" of this property to build a 1200 sq. ft house on a lot, withdraw seventy dump trucks full of dirt and kill three trees that are supposed to be protected and replace them with seedlings. She plans to vote "no" on the project and hoped that if it is approved by the Commission at the very least the chain link fencing around the remaining trees will be carefully monitored. She feels the property should be used as a lot transfer.

C Gibson concurred with C Purcell's comments about the tree removal, and believes that there is an alternative way to build a house which would result in removal of fewer protected trees, and that some of the concerns about sluffing in San Juan and the slope that we have on San Juan could be mitigated. He thanked staff for forwarding the geotechnical reports but is not going to put himself in the position of questioning the conclusion of a licensed professional. It appears to him that the back corner of the retaining wall is about 9' from the foundation of the adjacent house and wonders what the consequence will be of cutting a 13' vertical cut 9' from a house that has a questionable foundation. He fears that jackhammering the bedrock could have adverse results on the adjacent house.

C Mathewson asked about bonding for some of the things that C Purcell addressed. PP de Melo replied that it would typically be outlined as a cost per tree and could be anywhere from \$3,000 to \$7,000 per tree. CDD Ewing suggested that, if a condition of approval to that effect is incorporated, it should state the bond should be in an amount to be established by the Director of Community Development in consultation with the City arborist.

C Mathewson asked for comments from the Community Development Director and Director of Public Works regarding pile driving and potential for damage to the neighboring house. CDD Ewing stated that he had nothing to add. C Mathewson feels that the grading is better than it was, and totally agrees with what C Purcell said about open space but is aware that the project has been before the Commission several times and is inclined to vote for it.

Chair Parsons stated the need to clarify the issue of the sidewalks and add a condition to protect the remaining trees. He agrees that it would be preferable to see the lot remain as open space, but the property owner has the right to some use of the property. The fact that the neighbors have accepted it tells him that there is not a lot of concern in the neighborhood.

C Purcell indicated she would move to deny the application on the basis that she does not feel the project meets Finding No. 3. since she does not believe that building a house is the most reasonable use of the site, and that eliminating three trees that are over 50 years old is not appropriate. C Wiecha believes there are alternative designs possible on the site that would minimize the tree removal.

MOTION: By C Purcell, seconded by C Petersen, to deny the Single-Family Design Review, Grading Application and Tree Removal Permit for the reasons stated above.

Ayes: Wiecha, Gibson, Purcell, Petersen

Noes: Mathewson, Parsons

Absent: Torre

Chair Parsons announced that this item can be appealed to the City Council within ten days.

Public Hearing - 1109 Ladera Way: To consider a Single-Family Design Review and Conditional Use Permit to construct a 725 sq. ft. addition and allow a 618 sq. ft. secondary unit in the lower level of the existing two-story single-family residence. The proposed total floor area is 3,498 sq. ft. where a maximum of 3,500 sq. ft. is allowed. (Appl. No. 01-0016); APN: 045-083-010; Zoned: R1-C; CEQA Status: Categorical Exemption, Section 15303, Class 3(c) Robert Gooyer, AIA (Applicant) Therese Dostie Sjostrom (Owner)

PP de Melo summarized the staff report, recommending approval, and answered questions from the Commission.

Robert Gooyer, applicant, wanted to reiterate that when his client moved into the house there was a second unit downstairs, and they are merely attempting to legalize what has been going on for a year or so; there will be no change in the use of the home.

Chair Parsons opened the public hearing. No one came forward to speak.

MOTION: By C Wiecha, seconded by C Gibson, to close the Public Hearing.

Motion passed.

Responding to C Purcell's question, CDD Ewing stated that, as far as the City is concerned, a new owner is entirely responsible for knowing what use is permitted on their property. The City does not inspect properties upon sale.

MOTION: By C Wiecha, seconded by C Purcell, to adopt the Resolution approving a Conditional Use Permit and Single-Family Design Review at 1109 Ladera Way, with the conditions as outlined in the attachments to the staff report and the addition of a condition requiring the cleaning out of the garage of any obstructions that would impede it from being used as a two-car garage prior to issuance of an occupancy permit.

Ayes: Wiecha, Gibson, Purcell, Petersen, Mathewson, Parsons

Absent: Torre

Chair Parsons announced that this item can be appealed to the City Council within ten days.

Public Hearing – 9 Anita Court: To consider a Single-Family Design Review application to remodel the existing 2,409 square foot residence. The proposed remodel will add 378 square feet at the rear of the house on the lower level and add a new 708 square foot upper level. The remodeled home will total 3,495 square feet, where the maximum permitted floor area is 3,500 square feet. (Appl. No. 01-0048); APN: 044-142-440; Zoned: R1-B; CEQA Status: Exempt; Gelulio Cateno (Owner); Paul Cateno (Applicant)

ZT Stone summarized the staff report, recommending approval.

Chair Parsons opened the Public Hearing.

Bill Stephens, 5 Anita Court, asked if the applicant is required to employ a general contractor, expressed concern about the possibility of construction taking place on weekends or after hours, and about construction parking. CDD Ewing replied that the applicant is not required to use a general contractor, that the hours of operation are set by the City's Municipal Code so that there is no construction on Sundays and limited construction hours Monday through Saturday. He added that parking traffic is regulated by the State Vehicle Code and where parking is allowed on the street it is allowed by anyone with a licensed vehicle and is enforced by the Police Department. Responding to Mr. Stephens concerns regarding inadequate drainage from the roof of the subject house, CDD Ewing stated that the general principle in California is that one cannot increase drainage from one private property to another without permission. Since they are adding impermeable surfaces resulting in additional sheet flow, a standard requirement is that it has to be directed to a public drain. Responding to Mr. Stephens' concerns about the cul de sac becoming a parking lot, CDD Ewing stated that the zoning requirement is for a two-car garage.

David Altscher, 14 Anita Court, also expressed concern about the parking in the court. He stated that there are 18 cars currently permanently housed in the small cul de sac, and that any visitors to the court create a "parking lot." He is concerned that fire hydrants will be blocked and that there will be a serious injury due to young drivers, skateboarders, etc., in the court. He hoped that the construction project moves along carefully and swiftly.

Mr. Stephens returned to the podium to ask about the privacy code and was informed by PP de Melo that there are six single-family design review criteria that need to be met and there is no specific finding that deals with privacy for design review. The only privacy issue that surfaces as part of the finding is in relation to the floor area exception process.

Maryann Cunningham, 336 Malcom Avenue, spoke in favor of the addition, noting that the applicants are great neighbors and should be allowed to proceed with their plans.

Paul Cateno, applicant, stated that he will employ a general contractor, and that he does not believe there is a privacy issue for Mr. Stephens due to the distance between the two properties.

MOTION: By C Purcell, seconded by C Wiecha, to close the Public Hearing.

Motion passed.

MOTION: By C Mathewson, seconded by C Wiecha, to adopt the Resolution to approve a Single-Family Design Review at 9 Anita Court.

Ayes: Wiecha, Gibson, Purcell, Petersen, Mathewson, Parsons

Absent: Torre

Chair Parsons announced that this item can be appealed to the City Council within ten days.

Chair Parsons called for a recess at 8:20 p.m. The meeting resumed at 8:30 p.m.

Public Hearing – 1 Davey Glen Road: To consider an amendment to the approved Grading Plan for the Ross Woods Residential Planned Development. The current Grading Plan approval for the Planned Development allows 2,200 cubic yards of cut and 6,600 cubic yards of fill. The proposed amended Grading Plan will allow 1,000 cubic yards of cut and 18,500 cubic yards of fill for the subject site. The increase in the project grading fill quantity is proposed to preserve archeologically sensitive areas within the project site. The Detailed Development Plan for this project was approved by the Planning Commission on May 1, 2001. (Appl. No. 01-0090); APN: 044-162-130; Zoned: Planned Development (PD); CEQA Status – Adopted Mitigated Negative Declaration; Regis Homes (Applicant); Gene and Mary Lee (Owners)

PP de Melo summarized the staff report, recommending approval.

Dan Diebel, V.P. of Regis Homes, presented overheads of the amended grading plan and discussed the sensitive cultural deposits at the site. He asked for the Commission's favorable support and approval of the grading plan.

Responding to C Purcell's question about the impact that the radical grading plan will have on the tree preservation, Mr. Diebel stated that the plans that have been approved and the trees that they have always planned on preserving will remain. He added that a few protected (but not heritage) trees that were being transplanted are in question because of archeological findings and mitigation will be discussed with the Planning staff. Mr. Diebel also noted that the natural spring that comes out of the face of the hill at about 140' elevation will be a source of natural water for the deer that inhabit the area. C Purcell would like to see a plan for taking that into account deliberately; i.e., some type of deer watering trough.

C Mathewson asked where the fill is coming from. Mr. Diebel replied that it will come from the Hacienda apartment project in San Carlos, starting on July 9th and that it is 2.3-mile trip, primarily on El Camino Real.

Chair Parsons opened the public hearing.

Denny Lawhern, 408 Hiller Street and representing the Belmont Historical Society, stated that they are looking forward to the relocation of the Ross House foundation and being allowed to go on site. They are excited about the project and support the application.

MOTION: By C Purcell, seconded by C Wiecha, to close the Public Hearing.

Motion passed.

Responding to questions from C Mathewson, Mr. Diebel stated that there is a follow-up inspection with the City's Arborist scheduled for the week of July 9th. and that, in view of the increase in grading and fill, a condition could be added requiring a performance bond covering potential damage to streets and curbs. CDD Ewing suggested adding a condition to that effect and that the Public Works Director can decide whether the existing bonding is sufficient or whether he needs some additional capacity.

MOTION: By C Wiecha, seconded by C Purcell, to adopt the Resolution approving a Grading Plan Amendment for construction of a 32-unit Single-Family Residential Development for Regis Homes at 1 Davey Glen Road with the conditions as attached and the findings in the Staff Report, with the amendment that, prior to the issuance of the Grading Permit, the Director of Public Works will determine if additional bonding is needed to address maintenance of Davey Glen Road.

Ayes: Wiecha, Gibson, Purcell, Mathewson, Parsons

Abstain: Petersen

Absent: Torre

Chair Parsons announced that this item can be appealed to the City Council within ten days.

Public Hearing – Amendment to Zoning Ordinance: To consider an amendment to the Belmont Zoning Ordinance to amend Section 4.7.13 regarding exceptions and variance to the HRO-1, HRO-2 and HRO-3 standards. The amendment will consider deleting the allowance of exceptions to floor area standards, as provided for in Section 4.2.10, in the Hillside Residential and Open Space (HRO) zones.; CEQA Status: Negative Declaration; City of Belmont (Applicant)

CDD Ewing summarized the staff report, recommending approval based on the findings that the proposed language would achieve the objectives of the Zoning Ordinance and the goals and policies of the General Plan listed in the staff report, and adoption of the resolution recommending the change to the City Council.

C Purcell reported that one property owner had tried to obtain a lot density transfer and was unable to do so. She therefore wondered how many lots are available in this area that could lean on that one method of trying to keep the density down. CDD Ewing replied that there are roughly between 150 and 250 in the HRO-1 and HRO-2 zones, many of which are already developed and have obtained the density transfer. Included in that number are the lots that are potentially available for retirement and for every lot that is retired the lot is developed or expanded. He added that this is not a way to prevent development, it is a way to direct development from some lots to others as an incentive. C Purcell stated that she would have liked to discuss the issue with the Director of Public Works and the City Engineer, who had already left the meeting, because it seemed to her that Public Works conditions often encourage the development of the San Juan Hills area in direct opposition to the stated goals of the General Plan and the San Juan Hills Plan. She felt that the matter needs to be discussed in order to clarify to Public Works what the goals are, or else to clarify for the rest of the City what Public Works' parameters and necessities are.

C Wiecha stated that by keeping the second sentence in the edited version, "all standards shall be subject to variance provisions," basically the Commission is not precluding an applicant from applying for an exception to the floor area standard, however, it is changing the findings that need to be made in order to approve such a variance. CDD Ewing agreed, stating that an "exception" is a specific term with a specific set of findings. Floor area exception findings are a lower threshold for approval, whereas variance findings are much more rigorous.

Responding to C Peterson's question, CDD Ewing replied that every city does things differently and they have a lot of flexibility on how they grant additional kinds of variances, exceptions, modifications, etc.

Chair Parsons opened the Public Hearing.

Adam Naser, 2845 Flores St., #2, San Mateo, generally agrees with the City's intention to preserve open space areas. Mr. Naser stated that the policies regarding floor area transfer are too restrictive. They only allow lots in the immediate neighborhood to be retired, and there often aren't nearby lots available.

Damon Campbell, 3636 Jefferson Avenue, Redwood City, stated that he is a property owner in the City of Belmont, and a representative of over sixty people who encompass about 100 lots in HRO districts. He is in complete agreement with what Mr. Naser was saying and believes the amendment is wrong. He feels that it takes further development rights away and the lot merger program that is coming up is going to further complicate development. Mr. Campbell stated that a similar amendment was proposed in 1987 and was defeated, and he doesn't think much has changed since then and that this amendment should be defeated as well. The purpose of this was to create some open space; the lots are small and would only allow about a 1200 square foot house. He believes this will promote people to find ways to develop a house and that a slope density transfer is a good motivation for doing that. Referring to the method of sending out public hearing notices, he asked why the usual 300' notices were not sent out for this hearing. CDD Ewing replied that, since there is not a particular property involved in the application, publication in a newspaper is all that is required.

MOTION: By C Purcell, seconded by C Wiecha, to close the Public Hearing.

Motion passed.

Regarding Mr. Naser's comment suggesting eliminating the location of the lot for density transfer, Chair Parsons stated that it was a problem on a recent project and at that time the possibility that area should be widened was discussed. He asked staff if this is an opportunity to do that; i.e., could there be some words

inserted to allow for that. CDD Ewing suggested that that recommendation could be made to Council, but that it would have to be looked at both in the Zoning Code and in the San Juan Plan and both would have to be amended. It would end up coming back to the Commission before it could be adopted by Council.

C Wiecha would like to know why the requirement that density transfers be on the same street was adopted in the first place; i.e., it encourages extension of existing streets and perhaps that was not the real intent. CDD Ewing responded that it's a different section of the code that was noticed for discussing at this meeting, but the Commission could recommend it to Council. He believes that at least one Councilmember wants to look at pieces of the San Juan Hills regulations but at this point he suggested that if Commissioners have additional ideas to recommend to the Council, they could do so following action on this particular formal amendment.

C Gibson stated that he would be in favor of approving this resolution tonight and then recommending to Council to look into the lot transfer separately. C Mathewson concurred. C Wiecha also concurred, but felt it would be a good idea to have a full understanding of the intent and consequences of including that provision. What she would hope the Commission would want to do with these districts is to cluster undeveloped space to the greatest extent possible.

MOTION: By C Gibson, seconded by C Mathewson, to adopt the Resolution recommending to the City Council an amendment to the Zoning Ordinance regarding exceptions in the HR zones.

Ayes: Wiecha, Gibson, Purcell, Petersen, Mathewson, Parsons

Absent: Torre

Chair Parsons added the suggestion that the Commission recommend to Council that they work on revising the appropriate codes that would allow the widening of the area of available lots for density transfer to be across the board, not just on the local street in the HRO district. CDD Ewing suggested that the question raised by a Councilmember -- why, when the lot you want to transfer from isn't immediately abutting you only get 900 square feet, but if its further away you get 1200 -- could be looked at when revisiting the transfer program.

NEW BUSINESS

A. Floor Area Limits and Exceptions

CDD Ewing summarized the staff report, which was prepared in response to the Commission's request regarding limits on floor area standards.

C Gibson thanked him for having taken the time to do this and he found it very helpful, especially in understanding the distinction between a variance and a floor area exception. He feels the Commission needs to strive for more consistency. C Purcell also expressed her appreciation and asked if it could be agendized again when C Torre is present, as she had wanted to be involved in the discussion. By consensus, it was agreed that it would be placed on an agenda in the near future.

REPORTS, STUDIES, UPDATES, AND COMMENTS

A. Reports on Regulation of Retaining Walls and Fences

Chair Parsons thanked staff for these reports.

C Petersen asked for a definition of a corner lot which CDD Ewing replied that a corner lot as defined in the Zoning Code is "a lot which is bounded by two or more street lines where the angle of intersection is not more than 135 degrees." Any more than that at an intersection is not a corner lot and anything more acute than that is a corner lot. In the Zoning Ordinance, a "street line is a line separating and abutting either parcel from the street." A street is "a right-of-way which provides vehicular pedestrian access to adjacent properties the dedication of which has been officially accepted by the Council." Therefore, a private street

does not qualify under that definition. CDD Ewing added that this was an attempt to answer C Petersen's questions about fences and front yards, and should make it clear that 6' fences are allowed in all front yards except at the corners shown in the hashed areas on the staff memo diagram.

C Wiecha asked for clarification of what the requirement is for a fence on top of a retaining wall on the property line. CDD Ewing responded that Belmont's code is not clear on that question. It was suggested that CDD Ewing put it on a future agenda as a study session if he feels it needs to be addressed.

C Mathewson stated that, notwithstanding the fact that he voted for the Davey Glen project, he thinks it was an example of how grading issues are not always dealt with appropriately and need to be looked at sooner by Public Works staff. CDD Ewing agreed and stated that the current grading plan review process is not supported by the Zoning Code. C Wiecha suggested that it be farmed out to an independent check processor. CDD Ewing stated that our current procedures do not reflect the grading ordinance in this matter. The code includes all the controls we want, but does not provide an efficient process for commission review. The code says that Planning Commission review of grading occurs, when a permit to grade is requested – well after design review decisions are made. Staff is paying more attention to the words in the code than we have in the past and we find that they may not be working the way we want them to. We need to revisit the entire process to address why the Planning Commission is not getting accurate grading numbers.

Report from City Attorney

CA Savaree gave the Commission an update on the Palazzolo case (Rhode Island) that was just decided by the U. S. Supreme Court. She will send the Commissioners copies of the decision in the mail.

ADJOURNMENT:

The meeting adjourned at 10:10 p.m. to a regular meeting on July 17, 2001 at Twin Pines Senior and Community Center.

-
-

Craig A. Ewing, AICP

Planning Commission Secretary

*Audiotapes of Planning Commission Meetings are available for review
in the Community Development Department.*

Please call (650) 595-7416 to schedule an appointment